

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF TEXAS

DALLAS DIVISION

Civil Action No. 3-06cv2322-N

BLANCA VALENZUELA, MARGIE SALAZAR, JOSE A. SERRATO,  
JOSIE RENDON, CLARA TOVAR, CONSUELO ESPINO, MARIA  
AVILA, ERNESTINA NAVARRETTE, MARIA E. MUNOZ, AMANDA  
SALCIDO, CANDELARIO G. ORTEGA, MARIA ORTIZ, JOSE  
OLIVA, RAFAELA CHAVEZ, ELODIA ARROYO, SUSANA CARDIEL,  
GRACIE RIOS and LEONEL RUIZ, individually and on  
behalf of all others similarly situated,  
Plaintiffs,  
v.

SWIFT BEEF COMPANY, INC., d/b/a SWIFT COMPANY, SWIFT &  
COMPANY, HICKS, MUSE, TATE & FURST, INC., HM CAPITAL  
PARTNERS OF DALLAS, LLC and JOHN DOES I-V,  
Defendants.

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DEPOSITION OF: DOUGLAS W. SCHULT - April 8, 2008

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PURSUANT TO AGREEMENT, the deposition of  
DOUGLAS W. SCHULT was taken on behalf of the Plaintiffs at  
1770 Promontory Circle, Greeley, Colorado 80634, on  
April 8, 2008, at 9:05 a.m., before Barbara Birger,  
Registered Merit Reporter, Certified Realtime Reporter and  
Notary Public within Colorado.

1 consultants, there probably wasn't an exposure -- or  
2 the exposure wasn't as great at those two facilities.

3 Q. When you say your "consultants," who are  
4 you talking about?

5 A. At that time we retained -- back in March  
6 of '06 we retained a company called Border Management  
7 Securities, BMS.

8 Q. Is that headed by a man named Mark Reed,  
9 I believe?

10 A. That's correct.

11 Q. Were you involved in that decision to  
12 retain BMS?

13 A. Yes.

14 Q. What was the purpose of that decision?  
15 Why was BMS hired?

16 A. We had made -- I had set as a KPI for the  
17 person that is in charge of compliance at that time,  
18 Tim Hill, to go out and build a relationship with ICE  
19 and/or find a replacement for the consultant that the  
20 company had back in 2000, 2001.

21 Q. Now March 2006 is when the first  
22 subpoenas were served by ICE for the Marshalltown  
23 plant; is that right?

24 A. Marshalltown was the first in March of  
25 2006.

1 Q. It was the service of those subpoenas  
2 that was the impetus for bringing in this board of  
3 management strategies, correct?

4 A. No.

5 Q. At the time it was just coincidental?

6 A. The answer to the question is no. That's  
7 not why we started searching and interviewing Mark  
8 Reed.

9 Q. Why did you, then?

10 A. Because I had set a KPI for Tim Hill to  
11 find a consultant to replace Charlie McClure and/or  
12 develop a relationship with the Department of Homeland  
13 Defense so that we could get better information and  
14 insight on the immigration front. That KPI was set in  
15 '05. We began discussions with Mark in, I believe,  
16 January of '06.

17 Q. What's a KPI?

18 A. Key performance indicator. It's his  
19 goal -- one of his goals.

20 Q. And the prior consultant was Charlie  
21 McClure?

22 A. When we got here in 2000, Charlie was --  
23 he would go around to the plants 2000, 2001. I think  
24 he retired in late 2001.

25 Q. And what had he done for Swift?

1           A.    He would go around to the plants and  
2   perform audits of the hiring process, primarily  
3   focused on the I-9s.

4           Q.    And how often did he do that?

5           A.    He hit the plants at least once a year.  
6   It may have been more than that, but at least once a  
7   year.

8           Q.    And he retired in '01?

9           A.    I think it was late '01.

10          Q.    So how would you characterize what he  
11   was -- he was a consultant for what? Compliance  
12   with --

13          A.    Immigration compliance. Charlie was a  
14   retired INS agent.

15          Q.    Prior to 2000 with Mr. McClure, had Swift  
16   ever had an immigration compliance consultant?

17               MR. YOULE: Objection to form for lack of  
18   foundation. You can answer, if you know.

19          A.    Charlie was already retained when I came  
20   in June of 2000, so I can't speak before that.

21          Q.    (BY MR. PEARSON) From late 2001 when  
22   Mr. McClure retired until March of '06 when the Border  
23   Management Strategies was retained by Swift, who was  
24   serving as Swift's immigration compliance consultant?

25          A.    It would have been just attorneys. Legal

1 consulting.

2 Q. What law firm was that?

3 A. McGrath, North.

4 Q. I'm sorry?

5 A. McGrath, North. It's McGrath, North,  
6 they are based in Omaha, Nebraska. Steve Bogue was  
7 their lead immigration compliance attorney.

8 Q. Were they -- did they actually go to the  
9 plants, the attorneys?

10 A. Not on a regular basis, no.

11 Q. Did the attorneys review I-9 forms?

12 A. Not as a formal audit process.

13 Q. Going back to Mr. McClure. During the  
14 time in which he was serving as an immigration  
15 compliance consultant, what all did he do to carry out  
16 his duties?

17 A. He would go on site and actually perform  
18 an audit -- random audit of the I-9 forms and the  
19 documentation -- copies of the documentation that was  
20 attached to it, review the hiring process.

21 Q. What else?

22 A. That's primarily it.

23 Q. From the time he retired in late '01  
24 until Border Management Strategies was hired in March  
25 '06, was there anyone doing those specific tasks that

1 Mr. McClure had done previously?

2 A. I think it was 2001, 2008 -- I'm pretty  
3 sure it was 2001 we implemented a formal -- it was  
4 called an HR review. It was really an HR audit. It  
5 was a compliance audit. And covered a multitude of  
6 different human resource issues to include the I-9 and  
7 the hiring process.

8 Q. What did that entail?

9 A. On-site audits twice a year.

10 Q. What else?

11 A. They would do a full audit of a number of  
12 different issues to include the compliance issues.  
13 They would look at health care enrollment, whether it  
14 was being handled correctly, et cetera.

15 Q. Who performed those on-site audits?

16 A. Tim Hill. And then he had an individual  
17 that was helping him, Maria, but I don't remember her  
18 last name. Then in addition, in most cases there  
19 would be an HR director from another facility that  
20 would accompany them. So, in other words, Tim and the  
21 HR director from Worthington would go to Cactus, and  
22 they would do the audit at the Cactus facility, and  
23 vice versa.

24 Q. And why was the decision made in March  
25 2006 to hire another outside consultant as opposed to

1 continuing to do some of these things internally?

2 A. Because we had in -- it was late 2002 or  
3 2003 when ConAgra sold us, we lost access to Steve  
4 Bogue. And Steve had relationships inside of what I  
5 think was then called INS. We had had a couple events  
6 occur to us, and I don't remember right offhand what  
7 they were, but there were a couple things that  
8 happened in '05.

9 I said to Tim, we have got to find a way  
10 to replace this because right now we're a stand-alone  
11 company and we don't have that type of relationship  
12 with the access to that kind of specialization. You  
13 need to go figure it out and replace it. And I think  
14 his specific KPI was a relationship-building process  
15 with the Department of Homeland. But that's why we  
16 started running down that road.

17 Q. And what events do you recall in 2005?

18 A. That's why I was saying there was a  
19 couple things that happened for me to put that on  
20 Tim's radar screen, but I don't recall exactly what  
21 they were offhand.

22 Q. You don't recall whether they were  
23 enforcement actions at other companies?

24 A. No. Because, frankly, back then I don't  
25 know how much enforcement there was, or what was going